

INFORMATION LETTER

NATIONAL CANNERS ASSOCIATION

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HOUSE AND SENATE BEGIN DEBATE ON OPA EXTENSION

Amendments Setting December 31, 1945, Expiration Date; Restricting Subsidies are Passed

On June 5, the Senate began debates on the extension of the Emergency Price Control Act and the Stabilization Act. On June 7, the House started its consideration of the bill (H. R. 4041) to extend OPA, after rejecting a proposal that the Smith Committee proposals could be presented as amendments to this bill without restriction. The amendments proposed by the Senate Banking and Currency Committee (summarized in last week's INFORMATION LETTER, page 8246) to extend the Act to December 31, 1945, and to restrict the subsidy programs to direct appropriations by Congress after June 30, 1945, were passed without substantial debate. The controversial Bankhead amendment concerning maximum prices for textiles was under debate in the Senate at the time the LETTER went to press.

The House debate concerned a proposal approved by the House Rules Committee which would allow the bill reported on June 3, 1944, by the House Banking and Currency Committee, to be subjected to amendments proposed by the Smith Committee. (For Smith Committee proposals, see INFORMATION LETTER, No. 983, page 8183, April 29, 1944.) This proposal was rejected for parliamentary reasons after a vigorous debate.

The bill to extend the OPA, as reported by the House, is similar in many respects to the Senate bill. One of the important points of difference between the House and Senate bills is that the House proposes to extend OPA only to June 30, 1945. The House bill also contains a provision designed to prohibit the Administrator from fixing profits "when such action has no relation to price control." No similar requirement is made in the Senate bill. On the other hand, the House bill does not contain any provision concerning subsidies.

The House bill contains provisions concerning protests and appeals which are substantially the same as those in the Senate bill. The House provision would, however, permit a protest against a regulation to be filed at any

time and also would allow any defendant in *any* court proceeding, civil as well as criminal, to ask for a stay to permit filing a petition with the Emergency Court of Appeals to determine the validity of a particular regulation. The present Senate provision limits this stay to criminal proceedings only.

Sharp debate developed in the Senate over an amendment proposed from the floor by Senators Chandler and Weeks to permit any defendant in a civil suit for maximum price overcharges or for an injunction to make the defense that the violation was not willful and that he had taken all practicable measures to comply with the OPA regulation. This same amendment had been proposed to the House Committee by Association counsel. This amendment was adopted by the Senate despite strenuous argument that its adoption would hamstring enforcement. Under present law, willfulness of a violation is not an issue in a civil case involving a price violation.

Debates in both House and Senate are expected to be concluded during the coming week.

LABOR PRIORITIES

Industries Most Vital to War to Have First Call on Available Manpower

On June 4, the War Manpower Commission issued a statement that Chairman Paul V. McNutt "acted today to give industries that are most vital in the nation's war effort priority on all available male labor."

The mechanics of achieving this end are labor priority referrals. The announcement states that the following four steps will be taken to carry out the plan.

1. Establishment of a nation-wide system of priority referrals which provides that employers shall hire all male workers only from those referred by WMC's United States Employment Service, or by approved arrangements and that workers will be referred to jobs in order of the urgency of war needs.

2. Establishing the maximum number of men workers who may be employed in specific establishments in the 184 areas of labor shortage as defined by WMC.

(Concluded on page 8256)

CHIEF OF CHILDREN'S BUREAU OUTLINES OCCUPATIONS IN WHICH 14, 15-YEAR-OLDS MAY BE EMPLOYED IN CANNERRIES

The canning industry, in planning its 1944 labor force, is reminded of the minimum age provisions for employment of minors under the Fair Labor Standards Act of 1938 (popularly called the Wage and Hour Law) for work in establishments canning fruits, vegetables, and seafood. Provisions of the law are here summarized by the Children's Bureau, U. S. Department of Labor. Copies of the Summary are available from the Bureau upon request.

Sixteen is the basic minimum age set under the Act for employment in canneries. For work that is hazardous in nature, 18 is the minimum. In connection with cannery work, the 18-year minimum applies to helpers or drivers on motor vehicles and to those engaged in the operation of power-driven wood-working machines which may be used in the making of boxes or crates. Katharine F. Lenroot, Chief of the Children's Bureau, further reminds cannery workers that the Act specifically bars the employment of 14- and 15-year-olds in any manufacturing occupations, and since it is well established that canning is manufacturing, 14- and 15-year-olds may not participate in actual canning occupations.

The employment of 14- and 15-year-olds in connection with canneries is permitted only in occupations that are not manufacturing or processing, and that are carried on in work rooms separate and apart from the work rooms in which the preparation of food and the processing of food takes place. Subject to these limitations and to the limitations on hours, 14- and 15-year-old children may work, for example, in such occupations as:

(1) Cleaning, inspecting, and otherwise handling containers or lug boxes for raw materials.

- (2) Handling empty cans or shipping cases.
- (3) Lidding boxes by hand.
- (4) Opening up cartons for use in packing.
- (5) Piling box shocks in storage room.
- (6) Casing, labeling, applying protective lacquer coating to sealed cans, and storing and shipping of canned goods when the work is carried on in a warehouse or a shipping platform or in any other place in which manufacturing or processing occupations are not conducted, and provided they do not operate any power-driven machines.
- (7) Office work provided the duties do not involve work in the work rooms where manufacturing is carried on.

(Editor's note: While the Children's Bureau has not published any definition of what is a "separate workroom", it is understood that a wall, full partition, or other complete physical barrier must exist which will be practically effective in keeping 14- and 15-year-old employees out of the rooms where processing is carried on.)

Fourteen- and 15-year-olds employed in seafood canneries may engage in all the above occupations under the same conditions, and in addition they may help in unloading boats at the wharf and in reeling nets by hand.

In order to protect the health and well-being of working children 14 and 15 years of age, the Chief of the Children's Bureau has set up the following regulations regarding the hours which such minors can work. They may only be employed (1) outside school hours; (2) 3 hours a day and 18 hours a week when schools are in session; (3) 8 hours a day and 40 hours a week when schools are not in session; and (4) between 7 a. m. and 7 p. m.

These restrictions of the law are not arbitrary. They were authorized by Congress to protect the health and education of the young workers of the country.

For their own protection against unintentional violation of the child-labor provisions of the Act, canners should get and keep on file age certificates for all workers under 18. In all but four States, State employment or age certificates are acceptable as proof of age under the Federal Act; in Idaho, Mississippi, South Carolina, and Texas, Federal certificates of age are issued by the branch offices of the Children's Bureau.

Violations of the child-labor provisions of the Fair Labor Standards Act have been particularly high in the canning industry, Miss Lenroot said. In the last fiscal year, she pointed out, a third of the establishments inspected by

the Children's Bureau in this industry were employing children illegally. During the first 5 years of enforcement of the Act, of the 4,834 establishments found violating its child-labor provisions, 13 per cent were in the canning industry; and of the 12,881 children found illegally employed during this period, 17 per cent were in the canneries. Not infrequently children younger than 14 were at work.

Miss Lenroot warned the industry that the shipment, or delivery for shipment, of goods in commerce is forbidden under the Federal Act if, within 30

days prior to the removal of such goods from the establishment, children under the legal age were employed in or about the place in which such goods were produced.

Many State child-labor laws apply to work in canneries. For information regarding these State laws the State Department of Labor should be consulted. If the State law establishes a higher standard than the Fair Labor Standards Act, the State law must be followed. If the Federal standard is the higher, on the other hand, it must prevail.

OPA WILL USE 6.9 PER CENT AS BASE IN DETERMINING MAXIMUM PRICES FOR 1944 FRUIT AND VEGETABLE PACKS

Figure Represents 1940-41 Average Rate of Net Profit to Net Sales of Canning Industry

The 1940-1941 average rate of net profit of the fruit and vegetable canning industry, which will be used as a base in determining maximum prices for the 1944 pack, was 6.9 per cent, the Office of Price Administration announced June 5.

(This is the 1940-1941 average rate of net profit, before income and excess profits taxes, to net sales of the industry, OPA stated. The rate for 1940 was 4.4 per cent; that for 1941 was 8.7 per cent.)

In a February explanation of its pricing program, OPA said that this average rate would be used as a base in determining the prices for the 1944 pack. The years 1940-41 were used instead of the years 1936-39, those customarily employed as a base period by OPA, because the earlier period was one of unusual depression for the canning industry. At the time its earlier announcement was made, OPA had not completed its study of costs and profits in the canning industry, description of which was published in last week's *INFORMATION LETTER*, and was unable to state what the exact percentage of profit would be.

The base rate of 6.9 per cent applies to the industry as a whole. No individual firm will be held to this rate or guaranteed this rate as a minimum nor will the profit margin on individual products be necessarily at this rate, OPA stated. Prices will be so determined that customary relationships between the prices of different firms and of different products will be disturbed as little as possible. As a result, rates of profit for individual firms and individual products will remain the same as they were on the average in 1940-41 unless marked shifts in production have occurred, said OPA.

OPA explained further that the base rate of profit applies to sales volume at 1941 prices. The dollar volume of profit of 1941 will be maintained in 1944 if production is at the same level as in the earlier year. If production is increased, the dollar volume of profit will be increased correspondingly. This will be true for individual firms as well as for the industry as a whole.

Grower Prices for Field Peas Announced by WFA and OPA

A recommendation made by the War Food Administration for grower prices for field peas for canning has been approved by the Director of the Office of Economic Stabilization, the War Food Administration and Office of Price Administration announced jointly June 5.

The prices approved, on a green unshelled basis delivered to the cannery, are as follows:

	Black-eyed peas	All other field peas
	Per ton	Per ton
Virginia and Maryland...	\$60	\$55
All other States East of Mississippi.....	55	50
All States west of Missis- sippi including all of Lou- isiana	65	65

"All other field peas" include the following varieties: Crowder, Cream, Purple Hulls, and other similar varieties that are used for canning.

These prices will be used in constructing costs and consequent maximum prices for canned field peas of the 1944 pack, OPA stated. These approved prices are the average prices that will be used in calculating canners' ceilings and will permit the payment of normal price differentials for the different grades customarily delivered to canners, it was stated.

FRESH VEGETABLE PRICES

June Ceilings Specified for Table-use Snap Beans, Cucumbers, Cabbage

June maximum prices in effect at country shipping points for table-use snap beans and field-grown and hothouse cucumbers, lower than the May ceilings, have been announced by the Office of Price Administration. Sales of these vegetables on a delivered market basis through June 10 were subject to May ceilings. The new ceilings, established in Amendment 31 to Maximum Price Regulation No. 426, became effective June 4 for sales made f.o.b. country shipping points.

For snap beans the new price is \$2.70 for a bushel container with a maximum net weight of 28 pounds. The price for snap beans in other containers is 9.6 cents per pound. This compares with a May price of \$3 for a bushel container.

The new f.o.b. ceilings for field grown cucumbers are:

\$3.15 from June 2 through June 15, and \$2.10 from June 16 through June 30 for a bushel container with a minimum weight of 48 pounds;

\$1.84 from June 2 through June 15, and \$1.22 from June 16 through June 30 for a lug box with a minimum net weight of 28 pounds;

6.6 cents per pound from June 2 through June 15, and 4.4 cents per pound from June 16 through June 30 for other containers.

The May price for the bushel container was \$4.20.

A ceiling of 11.3 cents per pound was named for hothouse cucumbers. The May ceiling was 13.8 cents per pound.

At the same time, maximum prices for fresh cabbage were established for June for sales to retailers, institutional users and government procurement agencies at levels $\frac{1}{10}$ of a cent a pound above those which prevailed for the same period in 1943.

The new cabbage maximums are: 4.3 cents a pound in Texas, Louisiana, Mississippi, Alabama, Georgia, South Carolina and Florida; 4 cents a pound in Kansas, Oklahoma, Missouri, Arkansas, Kentucky, Tennessee, Virginia, North Carolina, California, Arizona, Utah, New Mexico, Nevada, Wyoming, Montana, North and South Dakota, Nebraska and Idaho; 3.9 cents a pound in the rest of the country.

Welsh Made OPA Field Officer

The appointment of Edward C. Welsh as Field Operations Officer for Price was announced June 6 by James F. Brownlee, Deputy Administrator for

Price of the Office of Price Administration, effective June 1.

Mr. Welsh, who served as regional price executive of the Cleveland region for two years, replaces George Taylor, who has resigned after three years of service with OPA.

The new Field Operations Officer for Price was born in New Jersey, attended public school in that State and Lafayette College. He spent several years in educational work as an instructor at Tufts College, and at Cincinnati and Ohio State Universities. He also held positions with the Temporary National Economic Committee and the National Resources Committee. He went to the OPA national office in May, 1944, to serve as a special assistant to Mr. Brownlee.

Correction

Through a typographical error the name of Major Belford L. Seabrook was misspelled in the presentation of his article on "Expansion and Production of Australian Canned Foods" in last week's INFORMATION LETTER.

Regulations on Apple Sales to Processors Terminated

All regulations requiring the sale of lower grade and smaller size apples to authorized processors have been terminated by the War Food Administration.

This action was taken by the termination of War Food Order 83, (formerly FDO 83) and all amendments and director's orders to WFO 83, effective June 6.

The order was terminated, WFA said, because processing of apples from the 1943 crop is practically completed and the harvest of summer apples from the 1944 crop will commence soon. It is not desired that the provisions of WFO 83 apply to these apples, WFA stated.

The original order, to help assure adequate supplies of needed apple products, was issued September 1, 1943, when the demand for fresh fruit was so great that the fresh market was threatening to absorb many of the lower grade apples which ordinarily are used for processing.

Apples affected by the order were produced in or shipped to certain counties in Washington, Oregon, California, New York, Pennsylvania, Maryland, Virginia and West Virginia and were restricted for sale except to authorized processors.

RESALE CEILING PRICES

Canners Must Use Maximums Set for Civilian Sales of 1943 Pack

Processors who buy canned fruits and vegetables from government agencies were advised by the Office of Price Administration June 6 that in resales into civilian channels they must use as ceiling prices the maximums established for civilian sales of the 1943 pack of the same products. This requirement is specified in Amendment No. 29 to Maximum Price Regulation No. 306.

These provisions, effective June 5, 1944, apply to the pricing of canned fruits and vegetables that may be released from time to time by the Food Distribution Administration and other government agencies from supplies that had been purchased for the army, lend-lease or other government uses. They are designed to promote the orderly distribution into civilian channels of essential food supplies, OPA stated.

In authorizing the use of the 1943 pack ceiling prices, the OPA took cognizance of the fact that some of the products being released by government agencies are of prior years' packs. The 1943 pack of canned fruits and vegetables has advanced in price over prior years because of raw material and labor cost increases.

"The effect of this action will be that FDA or other government agencies will be in a position, in most instances, to get benefits of any increase in the value of the canned fruits and vegetables instead of such increases possibly being absorbed by increased margins to intermediate handlers in the distribution of the products," OPA said.

Wholesale Inventory Factor

The processed foods wholesale inventory factor for the reporting period beginning July 2 and ending July 29, 1944, will be 3.5, the Office of Price Administration announced June 6 in issuing Amendment No. 18 to Second Revised Supplement 1 to Revised Ration Order No. 13, which became effective June 5.

The factor during the June period was 3. Reporting periods last approximately for a month.

For the July period, the maximum allowable inventory may be obtained by adding together the point sales and transfers of the wholesaler during the March, April, and May periods and dividing by three to obtain the average. This is then multiplied by the factor, 3.5, the result being the wholesaler's maximum allowable inventory.

One of Two Administrative Exemptions Which Define the "Area of Production" Is Held Invalid by United States Supreme Court

On June 5, the United States Supreme Court, by a five to four vote, decided that one of the two existing definitions of the "area of production" exemption under the Wage and Hour Law was invalid. It will be recalled that under Section 13(a) (10) of the Fair Labor Standards Act, there is a complete exemption from both the minimum wage and maximum hour provisions for all canneries located "within the area of production (as defined by the Administrator)." In October, 1938, shortly before the statute became effective, the Administrator defined the term, "area of production", to include only establishments obtaining raw material from the "immediate locality", and which did not employ more than seven workers. After fairly elaborate hearings early in 1939, the Administrator added a second definition which exempted canneries located in cities or towns of less than 2,500 population and which obtained their raw materials

from a distance within ten miles. (See INFORMATION LETTER No. 739, April 22, 1939, page 5817.)

In March, 1940, a reexamination of these definitions was ordered, further hearings were held, and on July 22, 1940, revised definitions were issued. The definition limiting the "area of production" to canners employing seven or less employees was changed to require that they draw their raw materials from the "general vicinity" instead of "immediate locality," and the controlling number raised to 10 employees. (At the same time, the Administrator provided a further exemption from the maximum hours provision, which is now called the 7(b) (3) hours exemption. In other words, the July, 1940, administrative action continued the narrow definitions of "area of production" so as to make them virtually inapplicable to any commercial cannery; but increased the number of workweeks wholly or partly exempt from the maximum hours requirements from 14 to 28 weeks.) (See INFORMATION LETTER No. 797, July 27, 1940, page 6277.)

Employees of Holly Hill Fruit Products, Inc., a citrus fruit cannery located in a town of 650 people in Florida, sued, under the former 1939 regulations, for the difference between what they had been paid in 1939 and 1940 and the wages required by the Act. The company, which asserted that it was exempt, employed more than seven employees and obtained all but 2 per cent to 3.75 per cent of its fruit within ten miles of the cannery. The Federal District Court held that the two definitions were valid, and that since the company did not fall within either of them, it was not exempt from the minimum wage and maximum hour requirements. The Circuit Court of Appeals, however, held that the definition, which defined "area of production" in terms of the number of employees, was invalid, and, eliminating this portion, the Court ruled that since the cannery obtained its raw material "in the immediate locality", it was exempt. (See INFORMATION LETTER No. 943, July 17, 1943, page 7776.)

A majority of the Supreme Court agreed with the Circuit Court of Appeals. The opinion, written by Mr. Justice Frankfurter, first considered the 2,500-population-ten-mile definition, and suggested that it was valid. It held, however, that all of the cannery's raw material must come from within the ten-mile area, and hence concluded that this definition was not applicable to the defendant company.

LABOR PRIORITIES

(Concluded from page 8253)

3. Creation of manpower priorities committees in these areas. These committees will decide which industries in their areas are entitled to priorities and will work with the area director in establishing the maximum number of workers for each establishment.

4. Intensification of the recruiting activities of USES so that men may be transferred from areas of labor surplus into those areas where urgent war production requires more labor.

This plan is but a modification in detail of several plans which have been used in some critical labor areas. The Chairman's order extends the program to all labor shortage areas.

An accompanying question and answer publicity release includes the following:

Q. What assurance is there the new plan will work?

A. It will be backed by three tested programs: (1) employment ceilings that fix the total number of workers who may be employed in any given establishment in areas of labor shortage as defined by WMC; (2) setting up manpower priorities committees in all labor shortage areas; (3) stepped-up recruitment activities by USES so that men may be transferred from labor surplus areas to those where there is an urgent need for more male labor.

The effect of the order on any individual canner is largely dependent on the priority rating which is given food processing in his area.

The majority of the Court next considered the "immediate locality-general vicinity" and the seven employee definition, and concluded that it was invalid because the Administrator had exceeded his authority in attempting to define a geographical area in terms of the number of employees.

The Court, however, did not agree with the determination of the Circuit Court of Appeals that the seven employee limitation could simply be omitted and the remainder of the definition applied.

"Since the provision as to the number of employees was not authorized, the entire definition of which that limitation was a part must fall. We can hardly assume that the Administrator would have defined 'area of production' merely by deleting the employee provision, had he known of its invalidity. It would be the sheerest guesswork to believe that elimination of an important factor in the Administrator's equation would have left his equation unaffected even if he did not here insist upon its importance. It is not for us to write a definition. That is the Administrator's duty."

The third point considered in the elaborate majority opinion, the concurring opinion of Mr. Justice Roberts, and the dissenting opinion of Justices Rutledge, Black, Murphy, and Douglas was what disposition should be made of the case once the regulation was held invalid. The dilemma posed was whether an invalid definition left the employees covered by the statute; or whether an invalid definition left all of the employees exempt. Four of the Justices concluded that the best course would be to send the case back to the District Court with instructions that it be held until the Administrator has an opportunity to formulate a new, valid definition. The theory of these Justices seems to be that once the new definition is issued, it may operate retroactively to 1938 when the Act became effective. Mr. Justice Roberts thought the definition was invalid, but agreed with the Circuit Court of Appeals that the invalid limitation for seven employees could be stricken and the remainder of the definition applied to exempt the company.

Justices Rutledge, Black, Murphy, and Douglas disagreed with the majority of the Court and thought the definition was valid on the theory that the broad discretion delegated to the Administrator permitted him to draw this line based upon size of the processing establishment. Three of these four Justices likewise took the position that if the definition, and hence the exemption, was not operative, the employees

remained subject to the Act. The theory of these dissenting Justices seemed to be that since the company had shown that the definition was invalid, it had likewise shown that no exemption existed, and hence the requirements of the law were fully applicable. They objected strongly to the retroactive rule and pointed out that employers in this field were being required not only to run the risk that an existing regulation might be held invalid, but that some new regulation might in the future be issued and relate back to past activities.

The question as to how the Statute of Limitations might be applied to employees' suits, in the event of a change in the definition which would be considered retroactive, was not considered by the Court. The extent to which these and similar questions raised by the decision will affect the industry is, of course, dependent upon the number of canners which have attempted to apply the total exemption from both the minimum wage and maximum hour provisions of the Wage and Hour Law.

Surplus Property Storage

The Surplus War Property Administrator has announced the formation of a Space Control Committee to coordinate the surplus war property storage activities of government agencies. Federal departments represented on this committee are the following: War, Navy, Maritime Commission, Procurement Division of the Treasury, and Reconstruction Finance Corporation. The Space Control Committee, through the cooperation of these agencies, will establish a record of space available and lend mutual assistance in locating space required for storage of surplus property.

Sweet Potato Pack for 1943

The canned sweet potato pack for 1943 totalled 890,711 actual cases, according to figures compiled by the Association's Division of Statistics. On a basis of 24/2'a, this pack amounts to 1,214,702 cases.

The following table presents details of the pack in actual cases by pack style and container size:

Style of pack	Can Size					
	No. 2	No. 2 1/2	No. 10	Vac.	Misc.	Total
Cases	Cases	Cases	Cases	Cases	Cases	Cases
Solid.....	509,821	23,964	63,000	.....	506,785	
Syrup.....	3,000	77,572	10,777	31,845	511	123,205
Vacuum.....			20,525	.....	140,178	1,018
Total.....	3,000	607,918	24,741	243,523	1,529	890,711

FES Export Advisory Committee

The first meeting of the new Foreign Economic Administration Export Advisory Committee was held recently in Washington. The committee, organized to consider broad problems of foreign trade currently encountered by the export trade and FEA, met with Leo C. Crowley, Foreign Economic Administrator, and other officials of FEA. Among members of the committee is Stanley Powell, Director of Foreign Sales of the California Packing Corporation, and a member of the Association's Board of Directors.

Potato Ceilings Are Increased at Country Shipper Level

For the remainder of the month of June only, in all States except California and Arizona, ceiling prices for early 1944 potatoes are increased 20 cents per hundred pounds, at the grower and country shipper level, the Office of Price Administration announced June 5.

This action, taken pursuant to a directive from the Office of Economic Stabilization, in Amendment No. 16 to Revised Maximum Price Regulation No. 271, became effective June 6.

While the changes apply to all the United States except California and Arizona, actually they will affect growers only in the southern producing areas because in the rest of the country growers have not started to market their new potatoes in June. California and Arizona are excepted because those States have not suffered from the same unfavorable weather conditions, OPA stated.

Ceiling prices for all varieties of U. S. No. 1 grade white potatoes of the 1944 crop, sacked and loaded on carrier, by growers or country shippers, per 100 pounds, for all areas except California and Arizona, will be \$3.25 for the period June 1 to 15, and \$3.10 from June 16 to 30. Previously they had been at \$3.05 and \$2.90 respectively. Differentials continue as previously in the determination of ceilings for other grades, special sizes, and special packs or packages.

Third Quarter Packing Quotas Specified in M-81 Directive

Packing quotas for canned corned beef hash, chili con carne, boned turkey and chicken, non-seasonal soups and beans are affected by amended Directive No. 2 to Can Conservation Order M-81 published in the June 3rd *Federal Register*.

Following is the section from the directive that governs the quotas for the above-named non-seasonal foods:

(b) During the third quarter of 1944 no person shall purchase, accept delivery of or use for packing any product which is listed either in Schedule III or at the end of this paragraph, more cans than (1) 25 per cent of his 1944 packing quota for that product or (2) 50 per cent of his unused 1944 packing quota, whichever is larger. In the case of paints or paint products, he may not purchase, accept delivery of or use more cans than (1) 20 per cent of his 1944 packing quota or (2) 50 per cent of his unused 1944 packing quota, whichever is larger.

Product	Item No.	Schedule
Beans, with or without tomato sauce (from dried beans).....	26	I
Nonseasonal soups.....	39b	I
Corned beef hash.....	6	II
Chili con carne, with or without beans.....	7	II
Turkey, boned, and chicken, boned.....	9	II

WFA Order Establishes Army Priority on Pickle Products

The War Food Administration has announced that no packer may sell cucumber pickles or pickle products to anyone unless he has first contracted to sell at least 25 per cent of his products to the Army.

Under War Food Order 101, which became effective June 5, no packer may sell, contract to sell, or deliver, except to the Army, any of the cucumber pickles or the pickle products which he owns or had on hand June 4, unless he had contracted to deliver to the Army from those cucumber pickles and pickle products a quantity of pickle products equal to at least 25 per cent of the stocks owned by him on that date.

In addition, no packer may dispose of any cucumber pickles acquired by him after June 4, or any product made therefrom until he has contracted to deliver to the Army a quantity of pickle products equal to at least 25 per cent of the cucumber pickles acquired by him after that date.

Materials Valued at \$3,500,000 Allotted for Fishing, Canning

Applications for more than \$3,500,000 worth of controlled materials and products destined for use in fishing vessels, engines, and shore processing plants were approved by the War Production Board on the recommendation of the Office of the Coordinator of Fisheries during the 12-month period ended March 31, 1944, Dr. Ira N. Gabrielson, Deputy Coordinator, reported June 6.

Applications for controlled materials included more than 8,000 tons of carbon steel, alloy steel, and copper and aluminum products for use in the construction of vessels and engines. The average allotment per vessel is 6.91 tons of carbon steel, 0.114 ton of alloy steel, and 1.257 pounds of copper products. The average allotment per Diesel marine engine is 3.37 tons of carbon steel, 0.35 ton of alloy steel, 324 pounds of copper products, and 55 pounds of aluminum products.

Class B products, or manufactured items for which priorities are required, totaled more than \$2,000,000 worth of equipment including various types of engines, machines, refrigeration equipment, and canning machinery. Most of these products were for shore processing plants, with the exception of some auxiliary engines for fishing boats.

The applications also included 1,786,000 feet of lumber and other building materials for shore plants.

The estimated cost of materials approved during the 12 months ended March 31 has been the equivalent of \$296,371 per month, or \$9,723 a day.

1943 Pack of Pimientos

The pack of canned pimientos in 1943 amounted to 338,071 actual cases, according to figures compiled by the Association's Division of Statistics. This is almost a 50 per cent reduction from last year's total pack which was reported at 646,182 actual cases. The following table presents the detail of the 1943 pack by can sizes and States:

Can size	Georgia	Other States	Total
	Cases	Cases	Cases
No. 2½.....	610	.....	610
No. 7½.....	17,192	2,807	19,999
No. 4½ tall.....	14,506	12,797	27,303
No. 4½ flat.....	56,832	.....	56,832
No. 10.....	118	.....	118
Misc. tin.....	38,043	.....	38,043
14Z glass.....	19,484	.....	19,484
2Z glass.....	41,218	15,343	56,461
7Z glass.....	81,719	24,500	106,219
Misc. glass.....	3,047	9,865	12,912
Total.....	272,859	65,212	338,071

Mexican Fruit Industry Report

A 184-page report entitled "The Fruit Industry of Mexico" has been issued by the Office of Foreign Agricultural Relations of the U. S. Department of Agriculture.

This booklet is one of a series of fruit industry reports on South American countries and is similar to previous issues on Argentina, Brazil and Chile. Authors are Fred A. Motz, fruit specialist of OFAR, and Lester D. Mallory, Agricultural Attaché of the American Embassy in Mexico. Copies are available from the Office of Foreign Agricultural Relations, USDA, Washington 25, D. C.

Rules Cover Employee Prizes in Fifth War Bond Drive

The National War Labor Board and the Commissioner of Internal Revenue have announced that employers, pursuant to plan, may award prizes in war bonds to employees, without further approval, for the sale by such employees (outside of their regularly assigned duties) of war bonds to individuals during the Fifth War Loan Drive, provided the employer files either with the regional office of the Regional War Labor Board or the Salary Stabilization Unit, or both, as the case may be, a statement setting forth the amounts and basis of the awards under the plan.

Such awards must not be excessive in number, nor may the maximum exceed \$250 in face value. The awards may vary on the basis of the amount or number of bonds sold.

Officers and other officials of employers, or employees whose principal activity is concerned with the sale of War Bonds, may not participate in any such awards, it was stated.

Farm Machine Production Eased

Removal of quota restrictions permitting small manufacturers to engage in the unlimited production of farm machinery, equipment and repair parts made entirely from surplus materials or materials obtained with an AA-4 preference rating was announced June 7 by the War Production Board. This action was taken in Direction No. 3 to Limitation Order L-257. Manufacturers meeting certain requirements may produce, in unlimited quantities, any item of farm machinery or equipment, providing the item produced is made entirely from materials needing no allotments or priorities assistance higher than an AA-4.

Second-Hand Shipping Case Regulation Is Modified

Two modifications of the second-hand paperboard shipping container regulation were announced by the Office of Price Administration June 7.

Both changes, effective June 6 and designed to make available more used containers for shippers who are being handicapped by the shortage in new containers, are contained in Amendment No. 1 to Maximum Price Regulation No. 529. The changes are:

1. Users of wastepaper as a raw material in a manufacturing process are permitted to purchase second-hand paperboard shipping containers at the ceiling prices for these containers provided they are used as shipping containers and not as a raw material for fabrication into another product.

2. Where it has been customary to purchase second-hand containers in a "set-up" condition and reuse them as containers without having them "knocked-down" at any stage, purchases may be made at the ceilings for second-hand containers. Previously, to qualify for these ceilings, all second-hand containers had to be knocked down flat. This requirement now will apply only in cases where containers have been customarily handled in this manner before reuse.

ODT Urges Early Placement of Orders for Truck Engines

The Office of Defense Transportation is urging truck operators throughout the country to anticipate the need for replacing worn-out engines and place orders with their dealers several months in advance in order to insure an adequate supply.

W. J. Cumming, chief of the Maintenance Section of the ODT's Highway Transport Department, explained that if vehicle operators desire immediate engine replacements when needed, they must build up the demand.

The truck rehabilitation program for 1944 provides for the exchange and rebuilding of worn-out engines, transmissions and differentials which cannot be repaired with a few small repair parts, the ODT said. The unserviceable component is then rebuilt by the manufacturer or rebuilders for further use, thereby rotating stocks in dealers' hands.

Appley Resigns from WMC

Lawrence A. Appley has resigned as Deputy Chairman and Executive Director of the War Manpower Commission. Chairman Paul V. McNutt announced June 7.

The resignation is effective July 1. Mr. Appley will be succeeded by Charles M. Hay, General Counsel of the Commission since last August.

Mr. Appley's medical advisers have been urging him for some time to take a rest, Mr. McNutt said. After a period of treatment and recuperation he will return to his duties as Vice President of the Vick Chemical Company in New York.

Mr. Appley has been Executive Director of the War Manpower Commission since January, 1943, and Deputy Chairman since June of last year.

Applications to Accept Fish Oil Delivery Approved

The War Food Administration has approved all applications for permission to accept delivery of 1944 crop sardine and menhaden oil which is required to be set aside for essential war uses under War Food Order No. 60.

The authorizations provide that not more than 85 per cent of the fish oil accepted shall be crude sardine oil, and that certified orders must be in the hands of producers by August 1, 1944. The essential uses for which sardine and menhaden oil are being set aside are in hot-dip tinning, terne plating and galvanizing; and in the manufacture of insulating varnishes, ship-bottom paint, alkyd resins, heat-resistant paint, water-insoluble metallic soaps, lubricants, caulking compounds, mechanical packing, textile sizes, and natural or synthetic rubber products.

WFA Releases Tomato Puree, Paste, and Evaporated Milk

Additional quantities of food are being released from government-owned stocks to be returned to civilian trade channels and industrial uses as means of trimming these stocks to known requirements, the War Food Administration states. Authorized to dispose of such food stocks, WFA says it is making every effort to move them in a prompt and orderly manner.

Approximately 30,000 cases of tomato puree and about 4,500 cases of tomato paste, both packed in No. 10 cans, have been released from stocks held by the War Shipping Administration and are being sold to fish packers who are engaged in filling government contracts.

Approximately 300,000 cases of evaporated milk, packed in 14½ ounce cans, is being sold for industrial uses. Changes in war needs now make this milk available for use in the United States.

Present Sugar Allotments Will Be Continued for 3rd Quarter

Allotments of sugar to industrial users for the third quarter beginning July 1, will be based on the same percentages of base period use as those used during the second quarter, the Office of Price Administration announced June 6.

The present and third quarter allotments for all industrial users, except drug manufacturers, OPA said, is 80 per cent of the amount of sugar the user consumed in the like 1941 months.

Industrial users for whom the 80 per cent figure is continued include packers of condensed milk in containers of one gallon or less, mayonnaise and salad dressing, canned and bottled foods, and users of sugar in experimental, educational, demonstration and testing work.

Fifth War Loan Drive Launched

The Fifth War Loan Drive is scheduled for June 12 to July 8, according to an announcement by the U. S. Treasury Department. One of the features of the current campaign is to urge the purchase of an *extra* bond. What is meant by an *extra* bond is a bond bought in addition to regular payroll savings or regular cash purchases.

An effort is being made to recruit a great number of volunteer war bond salesmen to work in plants and offices of American industries. For the aid and guidance of such volunteer bond solicitors the Treasury Department has prepared several pieces of literature. Among these is a leaflet entitled "Getting the War Bond Order from Fellow Workers" and one entitled "Fight by His Side," which cites numerous incentives for war bond purchases.

Copies of this literature are available from the War Finance Division, Treasury Department, Washington, D. C.

New Association Members

The following firms have been admitted into membership in the Association since April 8, 1944:

Chetek Canning Co., Chetek, Wis.
East Pembroke Canning Corp., East Pembroke, N. Y.

L. A. Fish & Co., Jonesboro, Me.
Gorham Canning Co., Boston, Mass.
Haley Canning Co., Hillsboro, Ore.
Kaakinen Fish Co., Westport, Wash.
Kinsale Canning Co., Kinsale, Va.
W. A. Lee Canneries, Pecatonica, Ill.
Paulding Packing Co., Paulding, Ohio.
J. K. Sanford & Co., Tucker Hill, Va.
Wisconsin Canned Foods, Saukville, Wis.

RENEGOTIATION RULINGS

War Contracts Price Adjustment Board Issues Complete Regulations

Detailed rules covering renegotiation of war contracts under the new Renegotiation Act of 1943 were issued by the War Contracts Price Adjustment Board on June 7. These regulations supplement and complete the initial basic codification of the rules, the first part of which was issued on April 19. (See INFORMATION LETTER No. 982, page 8178, April 22, 1944.) The regulations issued on June 7 consist of the parts issued on April 19, which have been revised, and four new parts.

The new parts or chapters which have been included in the codification cover in detail determination of renegotiable business and costs (Part 1603); principles and factors for determination and elimination of excessive profits (Part 1604); rules covering agreements with contractors for return of excessive profits (Part 1605); and rules covering situations where information is refused or no agreement is reached concerning excessive profits (Part 1606). These regulations will be amended from time to time by the Board.

The regulations are too lengthy to permit reproduction in the LETTER. Canners who desire to have copies of the regulations may obtain them by writing to the Superintendent of Documents, Government Printing Office, Washington, D. C., for the *Federal Register* of June 7, 1944. This issue is No. 113 of Volume 9 of the *Federal Register*. The charge is 15 cents per copy.

The regulations announce the general policies of the Board in determining excessive profits. The Board states that "renegotiation is, in effect, an overall repricing," and that "an important goal of renegotiation is to bring sufficient pressure on excessive prices to induce constructive action toward reductions in unit costs and subsequent reductions in prices." In carrying out these policies, the Board stated that the prior basis of any renegotiation for any preceding year will not be controlling, but the decision will be made solely on the basis of the facts for the particular fiscal year under consideration.

The regulations also announce the general policy for price reductions for future deliveries of goods. This authority is contained in the repricing section of the Revenue Act of 1943. (See INFORMATION LETTER No. 975, March 4, 1944, page 8108.) The regulations do not clearly show whether the repricing for future delivery policy

will apply to spot sales of commodities. However, it is stated that if a contractor is unwilling to adjust future prices, "his failure so to do will be taken into consideration in the next renegotiation."

The regulations provide that renegotiation will be conducted on an overall basis of total moneys received under all renegotiable contracts rather than for each individual contract, unless the contractor requests individual treatment of the contract and the Board agrees to it.

There has been in the past some discussion of what contracts are subject to renegotiation. The regulations state that all Lend-lease contracts made by any agency having renegotiation authority are subject to the Act, but that Lend-lease contracts made by other government agencies are not subject to renegotiation. Lend-lease contracts with the Treasury Department, made under the First War Powers Act, and Treasury contracts for strategic and critical materials and for supplies for refugee relief under the Red Cross program, also are interpreted by the regulations to be subject to renegotiation.

The regulations indicate that the

Board will strictly interpret its power to make discretionary exemptions from renegotiation on the grounds that a product is a standard commercial article. The regulations state that the establishment of maximum prices alone is not sufficient reason for exemption of a standard commercial article from renegotiation. It is stated that maximum price ceilings have not prevented realization of excessive profits because the increase in volume "may lower costs to such extent that excessive profits are realized." In this connection, the Board ruled in its regulations that the exemption of standard commercial articles will only be made for types and classes of articles and not for individual contracts or individual contractors. The Board declared that the status of the individual contractor "is more readily dealt with through renegotiation where he can be given a clearance if after examination it is found that no excessive profits exist in the particular case."

Other interpretations by the Board of the other discretionary exemptions illustrate the Board's policy to be strict in its exercise of discretion to make these exemptions.

percentage for this commodity appears in the amended order for the first time.

A canner or processor must base his set aside requirements upon the total production of all of the plants operated by him in the base period, regardless of the number of plants operated by him at the present time, although the canner or processor may produce the quantity required to be set aside by him at any or all of his plants.

If a canner or processor does not pack enough of any commodity to meet his set aside requirements, he will be deemed to be in compliance with the order if he sets aside his entire pack of that commodity. In the event a canner or processor is required to set aside a larger quantity of a certain commodity under the amended order than he was required to set aside under WFO 22.6, as originally issued, he will be deemed to be in compliance with the order if he sets aside for the Government the total quantity of the commodity packed by him and in his possession after the effective time of this amendment, if such amount is not less than the quantity required to be set aside by him under the provisions of the order in effect prior to this amendment.

Another provision of the amended order requires all canners or processors to file a report 15 days after the completion of their packs with the Director of Distribution, War Food Administration. Form FDA-685 is required for this report.

Another provision permits the Army to purchase, inspect and name certain specifications for the items listed in the order.

All inquiries concerning WFO 22.6, Amendment 1, should be addressed to: War Food Administration, Office of Distribution, Fruit and Vegetable Branch, Washington, D. C., Ref: WFO 22.6.

Price Control for Fresh Fruit

Apricots, plums, sweet cherries and Italian prunes for the fresh market only were brought under price control for the first time on June 9, when the Office of Price Administration issued Amendment No. 32 to Maximum Price Regulation No. 426, effective June 13. OPA stated that the ceilings will be at levels which will mean reductions of from 15 per cent to 35 per cent from last year's retail prices for the fresh fruits.

Effective at shipping point, the new prices include dollar-and-cents ceilings at shipping points and specific mark-ups for the distributive services prior to retail. Cents-per-pound retail mark-ups will be set formally in the near future, it was stated.

OPA said that it will shortly set ceiling prices for fresh pears, fresh peaches and the 1944 crop of table grapes.

SET ASIDE ORDER ISSUED

Reservations Required Under WFO 22.6 Approximate 45 Per Cent of Total Canned Pack

Canners and processors are required to reserve for government war requirements approximately 45 per cent of the total pack of the 27 canned fruit and canned vegetable items included under Amendment 1 to War Food Order 22.6 (formerly FDO 22.6). The set aside, with respect to the commodities other than sauerkraut, listed in the order must be made from the quantities packed during the calendar year 1944. With respect to sauerkraut, the set aside is required to be made from the quantity packed during the period from September 1, 1944, to August 31, 1945, inclusive. The required set aside percentages were published in the INFORMATION LETTER for May 27.

The amendment, which is effective June 12, includes, in addition to sauerkraut, all of the items originally required to be set aside under War Food Order 22.6 as issued on February 11, 1944.

Although the reservation percentages have been increased for some items and reduced for others, the overall government requirements have not changed materially since the issuance of WFO 22.6 on February 11. Total government requirements for the canned fruit items on February 11 were estimated

as 36.4 million cases (basis 24-2-1/2's) as compared with the 35.6 million cases required under the amended order. Government requirements for the canned vegetable items under the original order amounted to 91.7 million cases (basis 24-2's) on February 11 and to 86.2 million cases under the amendment. Total requirements for the 27 canned fruit and canned vegetable items included under the order have been reduced by 6.3 million cases. The changes in the requirements and reservation percentages were necessary because some of the claimant agencies revised their estimated requirements and also it was found that some of the original estimates used for quantities packed during the "base period" had been miscalculated, making the "base pack" appear larger than it actually was. In these cases it was necessary to raise some of the reservation percentages in the amended order.

Upon the basis of the revised information, the set aside percentages were raised for apples, apricots, red sour pit cherries, fruit cocktail, peaches, Bartlett pears, lima beans, spinach, tomato juice, tomato puree, and tomato paste and reduced for applesauce, Kadota figs, pineapple, pineapple juice, asparagus, snap beans, beets, sweet corn, peas, pumpkin or squash, tomatoes and tomato catsup, while the percentages remain the same for all berries and for carrots. Since sauerkraut was not included in the original order, a set aside